



RESOLUTION #558

A RESOLUTION OF THE SNOHOMISH COUNTY FIRE DISTRICT NO. 4 BOARD OF COMMISSIONERS AUTHORIZING ADOPTION OF RELOCATION APPEALS POLICY

WHEREAS, the Snohomish County Fire District No. 4 (“District”) is a Washington municipal corporation and fire protection district formed pursuant to RCW 52.02.020 and operating under Chapter 52.12 RCW; and

WHEREAS, the District provides fire, emergency medical, and rescue services (“Fire and EMS”) within the City of Snohomish and surrounding rural area encompassing approximately 60 square miles with a population of approximately 32,000 residents; and

WHEREAS, the District provides fire and EMS services from three staffed stations: (1) Station 41, located at 427 Maple Avenue; (2) Station 42, located at 6425 171st Ave SE; and (3) Station 43, located at 1525 Avenue D, known as the “Headquarters Station”; and

WHEREAS, RCW 52.12.021 authorizes a fire protection district to acquire, purchase, hold, and occupy real and personal property, and to enter into and to perform any and all necessary contracts; and

WHEREAS, the District is authorized under RCW 52.12.021, .031, .051 and Ch. 8.20 RCW to acquire real property by the exercise of the power of eminent domain; and

WHEREAS, should the District undertake a project which will result in the displacement of any person, the District is required to make payment for moving and related expenses under Chapter 8.26 RCW; and

WHEREAS, the District desires to set forth a policy for an aggrieved party to file a written appeal when the aggrieved party believes that Snohomish FD #4 has failed to properly determine the eligibility for, or the method of determination of, or the amount of, a relocation payment required under Chapter 8.26 RCW.

NOW THEREFORE, BE IT HEREBY RESOLVED BY THE BOARD OF COMMISSIONERS OF THE SNOHOMISH COUNTY FIRE DISTRICT NO. 4 as follows:

Section I. Incorporation of Recitals. The recitals set forth above are hereby adopted and incorporated herein as if set forth in full.

Section II. Relocation of Displaced Tenants. All persons or businesses displaced as a result of the project will receive benefits pursuant to Chapter 8.26 RCW.

Section III. Relocation Appeals Policy. The District hereby adopts the Relocation Appeals Policy attached as Exhibit A.

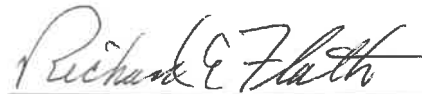
Section IV. Severability. If any section, subsection, sentence, clause, phrase or word of this Resolution should be held to be invalid or unconstitutional by a court or competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the constitutionality of any other section, subsection, sentence, clause, phrase or word of this Resolution.

ADOPTED BY THE BOARD OF COMMISSIONERS OF THE SNOHOMISH COUNTY FIRE PROTECTION DISTRICT NO. 4 THIS 14th DAY OF JUNE 2023.

SNOHOMISH COUNTY FIRE PROTECTION DISTRICT NO. 4



Evan Merritt, Chair



Richard E. Flath, Commissioner



Jill Gleason, Commissioner

Attest:



Don Waller, District Secretary / Fire Chief



Fire District #4 Policy & Procedure

Subject: Relocation Appeals	Number: #130
	Effective: 7/1/23
Fire Chief Approved:	Supersedes: N/A
Commissioner Approval:	Page 1 of 12
Legal Review By: Kinnon Williams	Date: 6/14/23

1.0 PURPOSE: To establish a process for reviewing relocation appeals filed with the District.

2.0 PERSONNEL AFFECTED: Board of Fire Commissioners and District employees.

3.0 PROCEDURE:

3.1 Appealable Actions - Initiating the Appeal

- Form and Contents of Notice
 - Appeals must be in writing. The District will consider a written appeal that complies with the requirements of this policy.
 - The appeal notice or letter should state the **date, name of appellant** and the **basis for the appeal**.
 - The letter or notice must clearly identify the **District's project**, the **parcel** of real property involved and should bear the **signature** and **address** of the appellant or the appellant's authorized representative.
 - The District may refuse to schedule any review or hearing on an appeal until these requirements have been complied with, or may issue an order dismissing the appeal upon the appellant's failure to comply within a reasonable time specified to the appellant by the District, which will not be less than fourteen (14) calendar days.

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- The appellant must file an appeal within the time limit for initiating the appeal at the following address:

Snohomish County Fire District #4
Board of Fire Commissioners
1525 Avenue D
Snohomish, WA 98290

- **Time Limit for Initiating Appeal:** *The District must receive a written appeal no later than sixty (60) calendar days after the appellant receives written notification of the District's determination on the appellant's claim for relocation payments.*
- **Appellant's Review of Files:** *The District will permit the appellant to inspect and copy all materials pertinent to the appeal, except materials that are classified as confidential by the District. The District may, however, impose reasonable conditions on the appellant's right to inspect, consistent with applicable laws.*
- **Scope of Appeal:** *In deciding an appeal, the District will consider all pertinent justification and other material submitted by the appellant and all other available information that is needed to ensure a fair and full review of the appeal.*
- **Location and Scheduling of Appeal Meetings or Hearings**
 - The meetings and hearings described in these procedures shall be held at the offices of the District.
 - At its discretion, the District may identify an alternative location for the participants' mutual convenience.
 - To the extent practicable, hearings shall be held on consecutive days until concluded.
- **Right to Representation:** *The appellant has a right to be represented by legal counsel or other representative in connection with any phase of their appeal under these procedures, but solely at the appellant's expense.*
- **Limitations:** *A person is entitled to only such benefits as are specifically delineated in these procedures.*

3.2 Initial Review Meeting

- **Scheduling**
 - Within fifteen (15) calendar days of receiving a notice of appeal, the Fire Chief, the Fire Chief's designee, or such other District employee as designated by the District Board of Fire

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Commissioners, shall serve as the Reviewing Officer to perform an initial review of the appeal.

- The Reviewing Officer shall be a District employee, or contractor, who is not, and has not been, directly involved in the action appealed.
- The Reviewing Officer shall schedule an Initial Review Meeting, and shall provide the appellant or the appellant's representative, if any, with at least thirty (30) calendar days' notice of the date of the Initial Review Meeting.
- Initial Review Meeting
 - The Reviewing Officer will review the notice of appeal and any other documents submitted by the appellant and by the District.
 - At the Initial Review Meeting, the Reviewing Officer will hear information relevant to the appeal from the appellant or the appellant's representative, if any, and from the District's representative.
- Settlement
 - During the Initial Review Meeting, the Reviewing Officer may act to facilitate a mutually agreeable settlement between the appellant and the District.
 - The Reviewing Officer shall set forth in the Reviewing Officer's Decision the terms of any such settlement, as well as the procedure for formalizing the settlement.
 - Once formalized, a settlement will not be subject to the Formal Hearing process described below.
- Reviewing Officer's Decision
 - Within fifteen (15) calendar days of the Initial Review Meeting, the Reviewing Officer will issue a written decision on the appeal, which may be to either accept or reject, in whole or in part, the appellant's claim. Such written decision shall not be required to include written findings or conclusions of law.
 - The Reviewing Officer will furnish a copy of the decision to the District and the appellant, or the appellant's representative, if any.
 - If the Reviewing Officer does not grant full relief as requested by the appellant, then the Reviewing Officer's written decision will advise the appellant of their right to have the Reviewing Officer's

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decision reviewed by a Hearing Officer, as designated by the District Executive, in a Formal Hearing.

- Request for Reconsideration
 - If the appellant disagrees with the Reviewing Officer's decision as to the appellant's eligibility for or the amount of the relocation entitlement, the appellant may seek an informal reconsideration of such determination by sending a letter explaining the grievance within thirty (30) calendar days after receipt of the decision to:

Snohomish County Fire District #4
Board of Fire Commissioners
1525 Avenue D
Snohomish, WA 98290
 - If the appellant disagrees with the reconsideration decision of the Reviewing Officer, the appellant may request an adjudicative hearing as outlined below.

3.3 Formal Hearing

- Appellant's Request for Formal Hearing
 - Within fifteen (15) calendar days after receiving the Reviewing Officer's written decision or reconsideration decision, the appellant must notify the District, at the address set forth in section 3.2 above, that the appellant requests a Formal Hearing before a Hearing Officer to review the Reviewing Officer's decision.
 - This request for review shall contain the same information required for the initial notice of appeal as set forth above.
 - If the appellant accepts the Reviewing Officer's decision or fails to file a request for a Formal Hearing within fifteen (15) calendar days after receiving the Reviewing Officer's written decision, then the matter shall be deemed closed.
- Hearing Officer Appointed; Right of Appellant to Request Additional Information
 - Within fifteen (15) calendar days after receiving the appellant's written request for a Formal Hearing, the Fire Chief, or such other District employee, or contractor, as designated by the District Executive, shall be designated as the Hearing Officer to conduct the Formal Hearing.

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- The Hearing Officer shall be a District employee who has not been directly involved in the original determination of the action being appealed and is not the Reviewing Officer.
- The District shall notify the appellant, or the appellant's representative, if any, of the designation of the Hearing Officer.
- This notification shall inform the appellant of the process and schedule by which the appellant may request additional information and make submittals to the Hearing Officer.
- Appellant's Request for Additional Information
 - If the appellant requires additional information from the District regarding the appellant's claim for relocation payments, the appellant may submit a written request for such information to the Hearing Officer and provide a copy of the request to District.
 - Additional information may include written interrogatories, production of documents or things, or permission to enter upon land for investigation or inspection.
 - The appellant must submit a written request for this information within thirty (30) calendar days of receiving notice of designation of the Hearing Officer.
 - The Hearing Officer shall grant the appellant's request for additional information upon finding that:
 - the appellant has demonstrated it was unable to procure the information from a review of the District's file;
 - the appellant has demonstrated a substantial need for the information requested in the preparation of its case; and
 - the District will not be unreasonably inconvenienced, or incur unreasonable cost, by providing the requested information.
- Decision on Request for Additional Information
 - The Hearing Officer shall issue a written decision regarding the appellant's request for additional information within fifteen (15) calendar days of receipt of the appellant's written request.
 - If the appellant's request is granted, the Hearing Officer shall set forth an appropriate procedure and schedule for provision of such additional information.

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- Appellant's Appeal Statement
 - The appellant shall submit an appeal statement to the Hearing Officer.
 - The purpose of the appeal statement is to identify the facts on which the appellant intends to rely.
 - The appeal statement shall include the following:
 - Brief statement regarding appellant's arguments;
 - Names of any witnesses and the substance of their testimony; and
 - Any exhibits or other materials on which the appellant intends to rely.
 - Submittals must be made within thirty (30) calendar days from the date appellant receives notice that a Hearing Officer has been designated to hear the appeal; or, if appellant requests additional information, within thirty (30) calendar days of either of the following:
 - The date appellant receives additional information from the District, if the Hearing Officer approves appellant's request; or
 - The date the Hearing Officer denies the appellant's request.
- District's Request for Additional Information
 - The District may present a written request to the Hearing Officer to obtain additional information from the appellant in order to respond to the appellant's hearing statement.
 - The District shall provide the appellant a copy of any such request.
 - The Hearing Officer shall grant the District's request for additional information upon finding that:
 - The District has demonstrated a substantial need for the information requested in preparing its case, in light of either the appellant's request for additional information or the appellant's submittals, or both; and

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- The appellant will not be unreasonably inconvenienced, or incur unreasonable cost, to comply with the request.
- If the Hearing Officer grants the District's request for additional information, the Hearing Officer shall set forth an appropriate procedure and schedule for provision of such additional information.
- District's Appeal Statement
 - The District shall submit an appeal statement to the Hearing Officer.
 - The purpose of this appeal statement is to identify the facts on which the District intends to rely in defending the appeal.
 - The appeal statement shall include the following:
 - A statement regarding the District's arguments;
 - The names of any witnesses and the substance of their testimony; and
 - Any exhibits or other materials on which the District intends to rely.
 - Submittals must be made within thirty (30) calendar days from the date the District receives the appellant's appeal statement; or, if the District has requested additional information, within thirty (30) calendar days from either of the following:
 - The date the District receives any additional information from the appellant, if the Hearing Officer grants such request; or
 - The date the Hearing Officer denies the District's request.
- Scheduling of Formal Hearing
 - Within thirty (30) calendar days of completion of exchange of any additional information, the Hearing Officer shall schedule the Formal Hearing.

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- The Hearing Officer will provide the appellant, or their representative, if any, at least thirty (30) calendar days' notice of the date of the Formal Hearing.
- Conduct of Formal Hearing: *The Hearing Officer shall conduct the Formal Hearing as follows:*
 - **Opening Statements:** Both the appellant and the District may make opening statements.
 - **Appellant's Case:** The appellant may offer lay and expert testimony; may cross-examine the District's testimony; and may re-direct appellant's witnesses.
 - **District's Case:** The District representative may offer lay and expert testimony; may cross-examine the appellant's testimony; and may re-direct the District's witnesses.
 - **Closing Argument:** Both the appellant and the District representative may make closing arguments. The arguments will be delivered orally or in writing. The Hearing Officer shall have the discretion to allow submission of post-hearing written arguments. Any post-hearing written arguments allowed by the Hearing Officer will be due five (5) working days after the hearing. The Hearing Officer will provide for rebuttal to any post-hearing arguments, as appropriate.
 - **Limitations:** The Hearing Officer may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. Testimony shall be concise and non-repetitious.
- Transcript of Formal Hearing: *The Hearing Officer shall provide for a transcript to be made of the Formal Hearing. An electronically recorded transcript shall comply with this requirement.*
- Initial Order
 - Within fifteen (15) calendar days of the conclusion of the Formal Hearing (including any post-hearing arguments), the Hearing Officer shall issue a decision regarding the appeal, setting forth the Hearing Officer's findings and conclusions.
 - The Hearing Officer's decision shall constitute an initial order.
 - The Hearing Officer's decision will advise the appellant of their right to seek the Decision Officer's review if dissatisfied with the initial order.

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- If not appealed to the Decision Officer, the initial order shall become the final order.

- Decision Officer's Review of Initial Order; Final Order
 - Within fifteen (15) calendar days of receipt of the initial order the appellant must notify the District at the address set forth above that the appellant requests a review of the initial order by the Decision Officer.
 - The request for the Decision Officer's Review shall contain the same information as required for the initial notice of appeal.
 - The District Assistant Chief or Administration, or such other District employee as designated by the Fire Chief, shall serve as the Decision Officer.
 - The Decision Officer shall be a District employee, or contractor who has not been directly involved in the action being appealed and may be neither the Reviewing Officer nor the Hearing Officer.
 - The Decision Officer shall review the appeal of the Hearing Officer's initial order.
 - The Decision Officer shall provide the appellant or appellant's representative, if any, with thirty (30) calendar days' notice of the date of the Decision Officer's Review.
 - The Decision Officer may, in the Decision Officer's sole discretion, agree to meet with the appellant, appellant's representative, if any, and the District representative concerning the appeal prior to issuing the final order.
 - Within fifteen (15) calendar days of the Decision Officer's Review, the Decision Officer shall submit the initial order as the final order, with or without any amendments deemed appropriate by the Decision Officer in light of the Decision Officer's review.
 - The Decision Officer shall advise the appellant of their right to seek judicial review if dissatisfied with the final order.
 - This appeal process shall establish the record for use in any subsequent judicial appeal proceedings, consistent with applicable law.

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4.0 RESPONSIBILITY:

- The District will promptly review appeals of relocation payments in accordance with the requirements of applicable law and this policy.
- The District will follow the procedures set forth in Chapter 468-10 WAC to the extent practicable.

5.0 DEFINITIONS:

6.0 REFERENCE:

6.1 WAC Chapter 468-10

7.0 APPENDIX:

7.1 Sample Notice

APPENDIX 7.1 Sample Notice

[INSERT DATE]

[INSERT DISPLACEE NAME]
[INSERT DISIPLACEE ADDRESS]

Relocation Assistance Program
General Notice of Relocation Rights
Project Title: [INSERT PROJECT TITLE]
Parcel No.: [INSERT PARCEL NO.]
Displacee No.: [INSERT DISPLACEE NO.]

Dear [INSET DISPLACEE NAME]:

This notice is to inform you that the property you are presently occupying is scheduled to be purchased by Snohomish County Fire District No. 4 (“District”) for a public improvement project. If the property is acquired as planned, it will be necessary for you to move.

Persons displaced as a result of this project may be entitled to certain relocation assistance as generally described in this letter and in the Relocation Assistance Program Brochure, which will be given to you. The laws governing relocation assistance are generally found in the United States Code, 42 USC 4601 et seq., Public Law 91-646 and the implementing regulation found in the Code of Federal Regulations, 49 CFR Part 24, the Revised Code of Washington, RCW 8.26, and the implementing regulations of the Washington Administrative Code WAC 468 – 100.

Qualification Requirements

In order to qualify to receive relocation entitlements, you must be in occupancy of the property prior to the date the District acquires the property. If you move before the offer, you may lose your eligibility to receive relocation assistance entitlements. Please contact me prior to moving in order to avoid any loss of entitlements.

If you are required to move, you will receive a *Notice of Relocation Eligibility, Entittlments & 90 – Day Assurance* that will explain your relocation entitlements in detail. This letter will inform you of the location of at least one comparable dwelling that is currently available as well as advise you of other relocation assistance that you are entitled to receive. Any person who is an alien not lawfully present in the Unitesd States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child as defined in Washington Administrative Code (WAC) 468 – 100 – 208.

Relocation Assistance Entitlements may include:

- Replacement Housing Payment;
- Moving Expense Payment up to a maximum of 50 miles for moving your personal property; and

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- Advisory Services which include housing referrals, and help in filing payment claims, transportation to look at replacement housing, and other necessary assistance to ease your inconvenience.

Occupancy of Property

When appropriate, you will receive a *Notice of Relocation Eligibility, Entitlements & 90 Day Assurance* providing you with the earliest date that you could be required to vacate the property.

Reconsideration of a District Decision

If you disagree with a determination the District makes as to your eligibility for or the amount of your relocation entitlement, you may seek an informal reconsideration of such determination by sending a letter explaining your grievance within thirty (30) calendar days after receipt of such determination to:

Snohomish County Fire District #4
 Board of Fire Commissioners
 1525 Avenue D
 Snohomish, WA 98290

If you disagree with the reconsideration decision of the Reviewing Officer, you may request an adjudicative hearing as outlined in the "Right to Appeal a District Decision" section below.

Right to Appeal a District Decision

You also have the right to appeal a District determination which includes my decision, without seeking reconsideration by filing an application for an adjudicative hearing before an administrative law judge of the Office of Administrative Hearings. You may file an application for an adjudicative hearing by serving a request for an adjudicative hearing pursuant to WAC 468 – 100 – 010 within sixty (60) calendar days of receipt of the District decision that you would like to appeal by certified mail, registered mail or personal service addressed to:

Sincerely,

[INSERT SPECIALIST'S NAME]
 Relocation Specialist
 Real Estate Services
 [INSERT SPECIALIST'S ADDRESS]
 [INSERT SPECIALIST'S PHONE # AND FAX #]
 [INSERT SPECIALIST'S E-MAIL ADDRESS]

Acknowledgment of receipt of General Notice of Relocation Rights and Relocation Assistance Brochure

Signature: _____

Date: _____